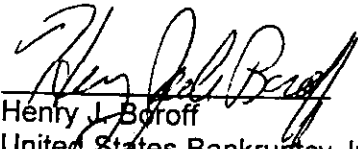


- a. the dates and amounts of all payments received from the debtors and/or the Chapter 13 trustee; and
  - b. the allocation of any payment received to fees and expenses; and
2. the Chapter 13 trustee file within 7 days thereafter a response to the foregoing statements only if her records of payment differ from those of Attorney Lafayette;
3. within 45 days of the entry of the said order, Attorney Lafayette disgorge to each of debtors in the Oyola, Rolon, Daigneault, Caci and Davis cases all payments received from the debtors and/or the Chapter 13 trustee, excluding only the filing fee, and file with this Court within 7 days thereafter a certificate of compliance together with a copy of each check;
4. within 30 days of the entry of the said order, Attorney Lafayette disgorge to the debtor in the LaFrance case so much of the payments received from the debtor and/or the Chapter 13 trustee which may exceed the amount allowed herein, and shall file within 7 days thereafter a certificate of compliance together with a copy of his check to the debtor, if any;
5. within 120 days of the entry of the said order, Attorney Lafayette file a fee application in each Chapter 7 and 13 case in the District of Massachusetts in which he appears on behalf of a debtor, but only if he has a claim for unpaid compensation or expense reimbursement either against the debtor or the estate;
6. Attorney Lafayette's claim for unpaid compensation or expense reimbursement be deemed waived in any case in respect to which he fails to comply with paragraph 5 above; and
7. on and after the entry of this order, the Chapter 13 trustee not make any payments to Attorney Lafayette on account of any request for compensation or reimbursement of expenses absent a court order;
8. on and after the entry of this order, Attorney Lafayette deposit any payment received from a Chapter 13 or 7 debtor in the District of Massachusetts in his client trust account and refrain from disbursing those funds until and unless a fee application permitting such disbursement is granted by the bankruptcy judge assigned to such case, unless such judge orders otherwise; and

9. the terms set forth in paragraphs 7 and 8 hereof be reviewed by this Court at intervals set by the court in its sole discretion, the first such review to occur approximately 12 months herefrom.

DATED: June 10, 2004

  
Henry J. Boroff  
United States Bankruptcy Judge

cc: Francis Lafayette, Esq.  
Denise Pappalardo, Chapter 13 trustee  
United States trustee  
Debtors

**United States Bankruptcy Court**  
**District of Massachusetts**

In re:	)	
	)	
HECTOR L. ROLON,	)	Chapter 13
	)	
Debtor	)	Case No. 02-45994-HJB
	)	

**ORDER**

For the reasons set forth in this Court's Memorandum of Decision of even date, and pursuant to this Court's Case Management Order of June 24, 2003, it is hereby

ORDERED that:

1. within 120 days of the entry of this order, Attorney Lafayette file a fee application in each Chapter 7 and 13 case in the District of Massachusetts in which he appears on behalf of a debtor, but only if he has a claim for unpaid compensation or expense reimbursement either against the debtor or the estate;
2. Attorney Lafayette's claim for unpaid compensation or expense reimbursement be deemed waived in any case in respect to which he fails to comply with paragraph 1 above; and

3. on and after the entry of this order, the Chapter 13 trustee not make any payments to Attorney Lafayette on account of any request for compensation or reimbursement of expenses absent a court order;
4. on and after the entry of this order, Attorney Lafayette deposit any payment received from a Chapter 13 or 7 debtor in the District of Massachusetts in his client trust account and refrain from disbursing those funds until and unless a fee application permitting such disbursement is granted by the bankruptcy judge assigned to such case, unless such judge orders otherwise; and
5. the terms set forth in paragraphs 7 and 8 hereof be reviewed by this Court at intervals set by the court in its sole discretion, the first such review to occur on June 15, 2005 at 2:00 p.m. in Springfield, Massachusetts.

DATED: June 10, 2004

  
Henry J. Boroff  
United States Bankruptcy Judge

cc: Francis Lafayette, Esq.; Denise Pappalardo, Chapter 13 trustee; United States trustee; Hector L. Rolon

United States Bankruptcy Court  
District of Massachusetts

In re:	)	
	)	
HECTOR L. ROLON,	)	Chapter 13
	)	
Debtor	)	Case No. 02-45994-HJB
	)	

**ORDER**

The instant Notice of Appeal of this Court's order of June 10, 2004 was filed untimely, pursuant to Fed. R. Bankr. P. 8002(a). Accordingly, pursuant to authority granted and direction provided by LR, D.Mass. 203(a), this Court hereby dismisses the said appeal for want of jurisdiction. See In re Abdallah, 778 F.2d 75, 77 (1st Cir. 1985).

DATED: June 29, 2004

  
Henry J. Boroff  
United States Bankruptcy Judge

cc: Francis Lafayette, Esq.  
Denise Pappalardo, Chapter 13 trustee  
United States trustee  
Hector L. Rolon


United States Bankruptcy Court  
District of Massachusetts

In re:	)	
	)	
HECTOR L. ROLON,	)	Chapter 13
	)	
Debtor	)	Case No. 02-45994-HJB
	)	

ORDER

For the reasons set forth in this Court's Memorandum of Decision of even date, the "Motion for Reconsideration and to Allow Late Filing of Appeal on Grounds of Excusable Neglect (Fed. R. Bankr. P. 8002(c))" filed by Attorney Francis Lafayette is DENIED.

DATED: July 8, 2004

  
Henry J. Boroff  
United States Bankruptcy Judge

cc: Francis Lafayette, Esq.  
Denise Pappalardo, Chapter 13 trustee  
United States trustee  
Hector L. Rolon

United States Bankruptcy Court  
District of Massachusetts

In re:

JOSEPH L. LaFRANCE,

Debtor

Chapter 13

Case No. 02-42450-HJB

In re:

MARTA L. OYOLA,

Debtor

Chapter 13

Case No. 02-45398-HJB

In re:

HECTOR L. ROLON,

Debtor

Chapter 13

Case No. 02-45994-HJB

In re:

KATHLEEN M. DAIGNEAULT,

Debtor

Chapter 13

Case No. 02-46689-HJB

In re:

PETER AND DENISE CACI,

Debtor

Chapter 7

Case No. 02-47249-HJB

In re:	)	
	)	
MARK BENNETT and	)	Chapter 13
ANGELA BENNETT	)	
	)	Case No. 03-40074-HJB
Debtor	)	
	)	
In re:	)	
	)	
STEFAN DAVIS,	)	Chapter 13
	)	
Debtor	)	Case No. 03-40199-HJB
	)	

#### **MEMORANDUM OF DECISION**

Before the Court is a "Motion for Reconsideration and to Allow Late Filing of Appeal on Grounds of Excusable Neglect (Fed. R. Bankr. P. 8002(c))" (the "Motion") filed by Attorney Francis Lafayette ("Attorney Lafayette"). The Motion does present an ironic picture, in that it seeks leave to file late an appeal of this Court's order of June 10, 2004 which, in turn, took action to ameliorate a variety of similar acts of neglect by Attorney Lafayette. See In re LaFrance, et. al., 2004 WL 1376363 (Bankr. D. Mass.).

As in the underlying case(s), Attorney Lafayette cites his allegedly poor physical condition and the side effects of medication as cause for his having failed to meet this important deadline. In the underlying cases, he claimed to have suffered from dental and back problems. Here, he claims to suffer from diabetes and polyneuropathy.




As in the LaFrance decision, this Court finds the existence of the alleged illnesses insufficient to justify Attorney Lafayette's failure to timely act. It is unlikely that either or any of these alleged conditions interfered in any material way with his ability to file a timely notice of appeal. This Court has checked with the records of the Clerk's Office and is advised (and takes judicial notice) that during the period of June 10, 2004 to June 21, 2004 in which the filing would have been timely, Attorney Lafayette:

1. appeared before this Court on June 16, 2004 in five (5) separate hearings; and
2. electronically filed eighty three (83) pleadings, five (5) of which were new bankruptcy cases, spread throughout the relevant period.<sup>1</sup>

A copy of that listing is attached hereto.

In light of the foregoing, this Court finds that Attorney Lafayette's failure to timely file his notice of appeal was within his control and resulted from his own inexcusable negligence. The Motion will, accordingly, be denied. A separate Order shall issue.

DATED: July 8, 2004

  
Henry G. Boroff  
United States Bankruptcy Judge

cc: Francis Lafayette, Esq.  
Denise Pappalardo, Chapter 13 trustee  
United States trustee  
Debtors

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<sup>1</sup>Eighteen were filed on weekend days.

Report of Filings by Attorney Frances Lafayette  
June 10, 2004 through June 21, 2004

June 10, 2004

03-44298

53	Motion to Reconsider	Bennett
54	Declaration Re: Electronic Filing	Bennett

03-45556

35	Motion to Reconsider	Gorski
36	Declaration Re: Electronic Filing	Gorski

04-42668

11	Schedules A-J	Adasiewicz
12	Chapter 13 Agreement between debtor and counsel	Adasiewicz
13	Chapter 13 Plan	Adasiewicz
14	Motion to Extend	Adasiewicz
15	Declaration Re: Electronic Filing	Adasiewicz

04-43304

1	Voluntary Petition (Chapter 13)(Attorney)	Pascale
3	Statement of Social Security Number(s)	Pascale
4	Declaration Re: Electronic Filing	Pascale

04-43338

1	Voluntary Petition (Chapter 13)(Attorney)	Cabrera
2	Statement of Social Security Number(s)	Cabrera
3	Declaration Re: Electronic Filing	Cabrera

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Total Filings on: June 10, 2004 15

**June 11, 2004**

**03-46928**

24 Motion to Convert Case to Chapter 7  
25 Declaration Re: Electronic Filing

Moccio  
Moccio

**03-47195**

37 Opposition  
38 Opposition

Kelly  
Kelly

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Total Filings on: **June 11, 2004**      **4**

**June 13, 2004**

**04-43053**

8	Schedules A-J	McCarthy
9	Chapter 13 Plan	McCarthy
10	Motion to Extend	McCarthy
11	Chapter 13 Agreement between debtor and counsel	McCarthy
12	Declaration Re: Electronic Filing	McCarthy

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Total Filings on: **June 13, 2004**      **5**

**June 14, 2004**

**02-45468**

123 Stipulation

Babb

**04-43026**

9 Schedules A-J

Austin

10 Declaration Re: Electronic Filing

Austin

**04-43053**

13 Notice

McCarthy

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Total Filings on: **June 14, 2004**      **4**

June 15, 2004

02-47473

73 Opposition

04-41885

19 Amended Chapter 13 Plan

20 Motion to Modify Plan

21 Amended Schedules

22 Motion to Amend Schedules

23 Declaration Re: Electronic Filing

Martin

Mulverhill

Mulverhill

Mulverhill

Mulverhill

Mulverhill

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Total Filings on: June 15, 2004 6

**June 16, 2004****02-44216**

50 Chapter 13 Trustee's Motion for Order Dismissing Case Ranger

**03-47113**

52 Opposition Dion

53 Opposition Dion

**04-04300**

14 Stipulation Moreno

**04-40724**

65 Motion to Extend Buckert

66 Motion to Extend Buckert

67 Exhibit A Buckert

68 Amended Schedules Buckert

69 Motion to Amend Buckert

**04-42835**

8 Notice Yankson

**04-43426**

1 Voluntary Petition (Chapter 7)(Attorney) Wheeler

3 Statement of Social Security Number(s) Wheeler

4 Declaration Re: Electronic Filing Wheeler

**04-43440**

1 Voluntary Petition (Chapter 13)(Attorney) Arnold

2 Chapter 13 Plan Arnold

4 Statement of Social Security Number(s) Arnold

5 Declaration Re: Electronic Filing Arnold

Total Filings on: **June 16, 2004** 17

**June 17, 2004**

**03-46552**

73	Amended Chapter 13 Plan	Bouffard
74	Motion to Amend	Bouffard
75	Amended Schedules	Bouffard
76	Motion to Amend	Bouffard
77	Certificate of Service	Bouffard
78	Declaration Re: Electronic Filing	Bouffard

**04-40833**

21	Opposition	Fenner
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Total Filings on: June 17, 2004 7



**June 18, 2004**

**04-41219**

41 Stipulation

42 Motion to Approve

Kelley

Kelley

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Total Filings on: **June 18, 2004**      **2**

**June 19, 2004**

**03-46346**

30	Objection to Claim	Provost-Lamy
31	Declaration Re: Electronic Filing	Provost-Lamy

**03-46928**

31	Notice of No Post Petition Creditors	Moccio
32	Declaration Re: Electronic Filing	Moccio

**04-42636**

12	Amended Chapter 13 Plan	Rolo
13	Motion to Amend	Rolo
14	Amended Schedules	Rolo
15	Motion to Amend Schedules	Rolo
16	Declaration Re: Electronic Filing	Rolo

**04-43537**

1	Voluntary Petition (Chapter 7)(Attorney)	Woods
3	Statement of Social Security Number(s)	Woods
4	Declaration Re: Electronic Filing	Woods

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Total Filings on: **June 19, 2004**    **12**

**June 20, 2004**

**04-40809**

20 Opposition

Price

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Total Filings on: **June 20, 2004** 1

**June 21, 2004**

**01-43979**

54 Notice of Post Petition Creditors  
55 Statement of Intent  
56 Declaration Re: Electronic Filing

Moreno  
Moreno  
Moreno

**02-40021**

73 Motion to Incur Debt

Barrett

**02-45958**

77 Opposition

Livingstone

**02-46690**

69 Motion to Continue/Reschedule Hearing  
71 Opposition  
72 Certificate of Service

Knoll  
Knoll  
Knoll

**04-40249**

33 Certificate of Service

Spears

**04-41129**

13 Motion to Appear Telephonically

Beaucage

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Total Filings on: **June 21, 2004** 10

Total Filings for this report: 83